

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:	*	CASE NO. 08-08321-BKT
	*	
EL LEGADO DE CHI CHI RODRÍGUEZ	*	CHAPTER 11
GOLF RESORT SC SE	*	
	*	
Debtor-In-Possession.	*	
	*	

**OPPOSITION TO MOTION FOR THE APPOINTMENT OF AN OPERATING TRUSTEE
UNDER 11 U.S.C. §1104, DOCKET NUMBER 125**

TO THE HONORABLE COURT:

NOW COMES, creditor and/or party in interest, Juan A. "Chi Chi" Rodríguez Vilá ("Rodríguez"), through his undersigned attorney, and respectfully states as follows:

Over secured creditor, Westernbank's main worry is that it has lost confidence in the current management of debtor-in-possession, El Legado De Chi Chi Rodríguez Golf Resort SC SE ("El Legado"), Paragraph 45, DKT 125. On the sales of Villas issue, on the one hand Westernbank alleges, which is denied, the pre-petition cash flow had been affected due to the alleged actions of Rodríguez but on the other hand, cash flow is being generated post-petition by the rental of the Villas, Paragraph 54 & 56, DKT 125. This would seem as an admission that El Legado is doing all it can to generate income, have a positive cash flow and successfully reorganize. Furthermore, no actual injury has been alleged by movant asides from some breach of contract causes of action.

Additionally, no facts are alleged in support of the partner stalemate theory and how it could lead to the conclusion of the appointment of an operating trustee, movant has only made bald assertions of legal principles, Paragraph 58, DKT 125, and should be dismissed.

This is not the case where there is an urgent situation, i.e., the deterioration of the debtor's assets that had already begun and was likely to continue in the absence of a trustee, see, In Re: Plaza De Diego Shopping Center, Inc., 911 F.2d 820 (1CA 1990), decided on other grounds.

Westernbank has failed to state any facts, that if found to be true by this court, could lead it to conclude as a matter of law that the current management of El Legado has incurred in fraud, dishonesty, incompetence, or **gross** mismanagement of the affairs of the debtor, either before or after the commencement of the case, or similar cause, or that such appointment is in the interests of creditors, any equity security holders, and other interests of the estate, 11 U.S.C. §1104.(a)(1) and (2).

WHEREFORE, creditor and/or party in interest, Juan A. "Chi Chi" Rodríguez Vilá, through his undersigned attorney, respectfully requests that for the above stated reasons this Court deny Westernbank's Motion for the Appointment of an Operating Trustee Under 11 U.S.C. §1104, Docket Number 125.

Respectfully submitted, in Isabela, Puerto Rico this 9th day of September, 2009.

CERTIFICATE OF SERVICE, LOCAL RULE 9013-5(a), P.R. LBR

I hereby certify that on this day, I electronically filed the foregoing with the Clerk of the Court uploading the same using the CM/ECF System which will send notification of such filing to the following CM/ECF participants: Monsita Lecaroz Arribas, Esq., U.S. Trustee; William Santiago Sastre, Esq.; Alfredo F. Ramírez MacDonald, Esq.; Ubaldo M. Fernández Barrera, Esq.; Javier López Pérez, Esq.; Isabel M. Rodríguez Casella, Esq.; Jesús R. Rabell Méndez, Esq.; Nayeli Díaz Febles, Esq.; Luis E. Fusté Lacourt, Esq.; Jorge R. Collazo Sánchez, Esq.; Carmen Priscilla Figueroa Bell, Esq.; Irving K. Hernández Valls, Esq.; and to all parties appearing in the master address list.

s/Frederic Chardon Dubos, Esq.

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USDC-PR 201601

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